JD (SF)–75-03
Duluth, MN

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES
SAN FRANCISCO, CALIFORNIA

NORTH STAR MARINE OPERATORS, INC.,
Respondent

and **18-CA-16680**

JOHN WILLIAM RADOSEVICH,
An Individual

David Biggar, Esq.,
for the General Counsel
A. Blake MacDonald, Esq.,
for the Respondent
John W. Radosevich,
Charging Party

DECISION [1]

Albert A. Metz, Administrative Law Judge. The issue presented is whether the Respondent's actions regarding its employee John W. Radosevich violated Section 8(a)(1), (3), and (4) of the National Labor Relations Act.[2] On the entire record, including my observation of the demeanor of the witnesses, and after considering the briefs filed by the parties, I make the following findings of fact.

---

1 This matter was heard at Duluth, Minnesota on June 24, 2003.

2 29 U.S.C. § 158 (a)(1), (3), and (4).

I. JURISDICTION

The Respondent, a corporation, operates a business that provides services for vessels arriving at the ports of Duluth, Minnesota, and Superior, Wisconsin. The Respondent admits, and I find, that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the International Longshoremen Association, AFL-CIO, Local 1037 (Union) is a labor organization within the meaning of Section 2(5) of the Act.

II. BACKGROUND

The Respondent's business is owned and operated by Richard Amatuzio. The Respondent's services include tying and untying large ships. The Respondent also operates a launch boat that transports personnel and mail between shore and ships. The Lake Superior shipping business is seasonal and typically begins during the month of April and concludes in December. At all material times, the Respondent and the Union have been parties to a collective-bargaining agreement covering the Respondent's employees' wages, hours and working conditions.

On September 9, 2002, Judge William J. Pannier issued his decision in *North Star Marine Operators, Inc.*, JD-94-02 which involved the same parties as the present proceeding. (Case 18-CA-16147) Judge Pannier found that the Respondent had violated the Act by discharging Radosevich on April 13, 2001, because of his union activities. Judge Pannier ordered the Respondent to offer Radosevich full reinstatement to his previous line handler position and to make him whole for any loss of earnings he suffered as a result of his termination. The Board adopted Judge Pannier's decision on October 24, 2002, and the Court of Appeals for the Eighth Circuit enforced the Board's Order by summary entry of judgment dated April 7, 2003. Radosevich was reinstated by the Respondent on September 25, 2002, but he was again terminated on November 20, 2002.

A dispute arose as to the amount of backpay due Radosevich. The Regional Office issued a compliance specification in case 18-CA-16147 and this matter was litigated before me seriatim with the hearing in this case. The present case deals with alleged discrimination against Radosevich following his reinstatement.

The supplemental decision (JD(SF)-71-03) in the compliance matter has issued this same date and finds that the Respondent was responsible for the backpay due Radosevich as set forth in the Government's compliance specification. My decision in the backpay case found that the Respondent failed to fully reinstate Radosevich to his former position because it discriminatorily refused to assign him the work of untying ships and serving on the crew of Respondent's launch boat.

The complaint in the present case alleges the Respondent violated the Act by 1.) failing to fully reinstate Radosevich after his first unlawful discharge, 2.) discharging Radosevich a second time on November 20, 2002, and 3.) by failing to assign Radosevich untying duties and launch boat duties after his second reinstatement on April 30, 2003.

III. DENIAL OF WORK TO RADOSEVICH

To summarize my decision in the compliance case, I found that the Respondent did discriminate against Radosevich following his reinstatement on September 28, 2002; when it unlawfully denied him ship untie work. This discrimination was accomplished by Amatuzio asserting his number 1 contractual seniority and performing the untie work himself. The evidence showed that this was done as a pretext to discriminatorily deny Radosevich (number 3 on the seniority list) that untie work. An important part of the evidence demonstrating Respondent's discriminatory motivation is its own 2002 shipping season records that showed Tim Rachuy, who is number four on the seniority list, had performed the vast majority of the work of untying ships prior to late August. Immediately before Radosevich returned to work on September 28 Amatuzio exercised his seniority and replaced Rauchy in doing the untie work. Amatuzio continued doing the untie work for every ship during the period that Radosevich worked until Radosevich's discharge on November 20. Immediately after Radosevich was terminated Amatuzio again stopped exercising his seniority and he assigned Rachuy along with Gary Butler, number two on the seniority list, to do all of the untie work. Amatuzio only assisted in untying a ship on two occasions after December 2 and this was because a third crewmember was needed due to difficulties encountered with a frozen line.

Amatuzio asserted that it was necessary for him to do untie work because of the bad economy, the financial condition of the company and, further, he had not been doing that work in the past because of health problems. The record did not sustain this defense. The evidence showed that Amatuzio only found it necessary to perform that work while Radosevich was reinstated. Other than that time span he paid his other employees to do the untie work and did not exercise his seniority – a work pattern consistent with past years. I found his reasons for doing the untie work after Radosevich was reinstated to be pretextual and designed to discriminate against Radosevich because of his union and protected activities.

I made the same finding of pretext regarding the Respondent's defenses it asserted regarding denying launch boat work to Radosevich, i. e., they were not supported by the evidence and were pretextual based on a motivation of unlawfully denying Radosevich work. My findings in the compliance case relative to the Respondent's discriminatory denial of work to Radosevich are incorporated by reference in this case.

IV. RADOSEVICH'S SECOND DISCHARGE

Radosevich was discharged a second time on November 20, 2002. The Government alleges that this second discharge was motivated by Radosevich's Union activities, because he filed the charge in Case 18-CA-16147-1, testified at the hearing before Judge Pannier, and because of the Order of the Board adopting Judge Pannier's decision.

Amatuzio conceded in his testimony at the first hearing that because of some grievances that Radosevich had in early 2001 (which included seeking the removal of Amatuzio from the bargaining unit), Amatuzio decided to exercise his seniority to perform the work of untying ships so he could earn as much money as possible before he was removed from the unit. Judge Pannier

found that Radosevich was engaged in protected activity when he filed the grievance and that Amatuzio perceived the grievances as a threat to his ability to continue working as a linehandler. Judge Pannier found that Amatuzio exercised his superior seniority in response to Radosevich's grievances attempting to remove him from the unit and thereby unlawfully excluded Radosevich from untie work.

After Radosevich's September 28 reinstatement, Amatuzio sent letters to the Union complaining about Radosevich's work. The first such letter was sent on September 28 and complained of Radosevich's alleged failure to give additional assistance to employees in tying up the first ship he was assigned after his recall. Amatuzio admitted that he did not ask Radosevich to perform the work that was complained about in the letter. Radosevich testified without contradiction that he had done nothing differently when he tied that ship than what he had done working on ships in the past.

On September 30 Amatuzio sent a second letter to the Union and reported that Radosevich had questioned fellow employee Butler why he (Radosevich) was not called to work on Respondent's launch boat when it serviced the *Elikon*. The Respondent offered no explanation why Radosevich's complaint about his not being assigned work was relevant to his work performance.

Amatuzio admitted that he did not send copies of these letters to Radosevich and that the purpose in sending the letters was to create a paper trail of Radosevich's "bad behavior." Amatuzio testified he had learned a lesson from the first unfair labor practice trial about not keeping records on Radosevich and he was not going to let that happen again. He failed to adequately explain how not notifying Radosevich about his "bad behavior" was going to correct the work problems Amatuzio perceived he exhibited.

Guthrie-Hubner, Inc. is a company that is the source of the vast majority of Respondent's business. On November 18 -- two days before Radosevich's discharge -- Charles Hilleren of Guthrie-Hubner sent a letter to the Respondent stating that in the first unfair labor practice trial there was testimony that Radosevich had threatened Scott Hilleren with bodily harm at some unspecified time. The letter notes that Scott Hilleren does all of the anchor boardings for Gutherie-Hubner. As a result Charles Hilleren wrote that he "would be remiss as an employer to disregard this possible risk and if Mr. Radosevich remains in this position I will be forced to make other arrangements for vessel boardings." Charles Hilleren did not testify at the hearing in this case.

Judge Pannier's decision sets forth the context of the threat. It centered upon Radosevich's purchase of a new truck. On one occasion he was driving in his new truck behind Scott Hilleren as they were shifting work locations. Radosevich believed that Scott Hilleren drove his truck in such a manner as to throw gravel onto the new truck. When they arrived at the next work site Hilleren recalled that Radosevich confronted him and angrily said words to the effect that "You better not kick rocks up on my truck again or I'm going to kick your fucking ass." Scott Hilleren had testified in the earlier hearing this incident occurred in 1999, two shipping seasons before Radosevich's first discharge in 2001. Judge Pannier concluded that the incident had no effect on the Respondent's work and the incident "had not remained as some sort

of problem by the time that the 2001 shipping season began." Hilleren admitted that Radosevich continued to work on the launch boat after the incident involving the threat and that Respondent called him back to work for the 2001 season as well.

It is unclear what prompted Charles Hilleren to send the letter concerning Radosevich. Since his most recent reinstatement, Radosevich had not been assigned any launch boat duties. As noted Radosevich had, however, worked on the launch after the 1999 incident. Charles Hilleren was not called to testify so his motivation for sending his letter is unstated. What is clear, however, is that the letter's complaint was based on a 3-year old incident that had not been shown to have subsequently proved detrimental to the working relationship between Radosevich, Scott Hilleren or the respective companies involved. I find that Hilleren's letter was a ruse designed to aid the Respondent in denying Radosevich launch boat duties.

The record also reflects a bizarre set of events that took place shortly before Radosevich's November 20, 2002, discharge. On November 16 and 17 Amatuzio sought out Radosevich as he helped a friend haul some trash radiators from a building. Amatuzio took photographs of Radosevich doing this work. Radosevich confronted Amatuzio about why he was following and photographing him. Amatuzio told him, "I've got you this time" and "You've overstepped your boundaries this time." Amatuzio testified that he was motivated to seek out Radosevich and take the photos because Radosevich had filed a workers compensation claim that he had been injured in the fall of 2002. Amatuzio was forced to admit in his testimony, however, that the workers compensation claim was not filed until after he took the photos, and indeed after Radosevich was fired on November 20. Radosevich confirmed this point when he testified without contradiction that he filed the workers compensation claim in December, 2002.

Radosevich was discharged the second time on November 20. On that date he had been assigned to aid in tying up the *Vlistborg*. It is undisputed that the *Vlistborg* arrived at the dock approximately 15-20 minutes earlier than it had been scheduled. Radosevich went to the dock at 1:15 – the time the ship was supposed to be just approaching the harbor. When he got to the dock he saw the ship was already being tied. Butler was tying up the ship's bow. He was being assisted by Amatuzio's cousin, John Chiovitti, who is a longshoreman and a member of the Union. Normally when a ship is being tied up two men work at the bow and two are assigned to the stern.

Radosevich replaced Chiovitti at the bow and he and Butler finished tying up that end of the ship. Radosevich observed that there was still a line to be tied at the stern, so he went to the rear of the ship where Amatuzio and Tim Rachuy were doing that task. He testified that when he got to the stern the two men were finishing the job so he watched them for about five minutes. Radosevich testified that Amatuzio then told him he might as well go home, that he was not going to pay him for the work. Radosevich insisted that Amatuzio would pay him. He testified Amatuzio's response was: "In fact, you're late. You're fired. Why don't you just go home. Get out of here." Radosevich said that they argued about whether he should be paid and then he showed a tape recorder to Amatuzio and said he was taping the conversation. He testified that Amatuzio told him he could do anything he wanted with the tape – go to the Union or go to the NLRB. Radosevich asked Amatuzio if he really wanted to go to court again, and Amatuzio said he did, because he was going to win this time.

Later the same day Radosevich received a letter from Amatuzio informing him he was discharged. The letter states his termination resulted from his being "late on the ship and putting the other linesmen in jeopardy for safety reasons, and berating me and again screaming and hollering on the dock as witnessed by other people."

Amatuzio, contrary to what he asserted in the termination letter, testified at the hearing that he did not discharge Radosevich because he was late. He explained that the discharge had resulted from Radosevich's "loud and boisterous swearing, yelling and hollering on the dock." Amatuzio failed to testify regarding any specifics as to what Radosevich said that led to his discharge. He did testify that he told Radosevich that he did not want anything to do with him and that Radosevich was "done." Amatuzio offered no evidence of any safety problem that Radosevich had caused as stated in the discharge letter.

The Respondent called employee Tim Rachuy to corroborate Amatuzio's version of what happened on November 20. Rachuy testified that, "…I saw (Radosevich's) truck on the dock, and by that time I think they had their line on the bow and Butch rolled up to us, parked his truck, walked up to Dick (Amatuzio) and said, "What's going on, Dick?" And Dick said, "Butch, that's it, you're done." Rachuy recalled that Radosevich then walked toward his truck, turned around and told Amatuzio that he was taping the conversation. He remembered that Radosevich told Amatuzio he did not learn the first time, they would go back to court, the NLRB had ruled against him once, and would do so again. Rauchy recalled that at some point Amatuzio told Radosevich that he had had enough of the yelling, hollering and screaming. Rachuy testified on cross-examination that he was "not really sure what transpired." Rachuy was then shown the pre-trial affidavit that he had given to a Regional Office investigator. He agreed that the order of events in the affidavit was true, which was that when Radosevich joined them, he did not hear what Radosevich said, but did hear Amatuzio tell Radosevich he was fired. He said he did not hear Amatuzio give any reasons why Radosevich was fired. He said he then saw Radosevich go toward his truck, pause and return, pull out a tape recorder and tell Amatuzio that everything was on tape. Rauchy recalled Radosevich made some reference about Amatuzio not learning the first time, and going back to court. In sum, I found Rachuy to be an uncertain witness to what he observed. I do not rely on his testimony in making my decision.

V. EVENTS SUBSEQUENT TO RADOSEVICH'S SECOND DISCHARGE

On April 30, 2003, the Respondent again recalled Radosevich to work. He received one untie assignment but no launch boat work. Amatuzio's wife called Radosevich to untie the *Isolta*. Untie work requires two men and Radosevich expected Butler to be there, as he and Butler commonly did that work. Amatuzio, however, assigned himself to untie the *Isolta*, rather than Butler. Butler, the number two man in the seniority list, subsequently filed a grievance because he was entitled to the untie work instead of Radosevich. Amatuzio testified that he did not thereafter assign untie work to Radosevich because "the Union got on me about [not] calling number 2 instead of number 3." Based on the record as a whole, I find Amatuzio's calling Radosevich out of seniority was a subterfuge designed to provoke a grievance from Butler and provide the Respondent with a false justification to deny Radosevich future work.

VI. ANALYSIS

The General Counsel has the initial burden of establishing that union or other protected activity was a motivating factor in Respondent's action alleged to constitute discrimination in violation of Section 8(a)(3). The elements commonly required to support such a showing of discriminatory motivation are union activity, employer knowledge, timing, and employer animus. Once such unlawful motivation is shown, the burden of persuasion shifts to the Respondent to prove its affirmative defense that the alleged discriminatory conduct would have taken place even in the absence of the protected activity. ***Wright Line***, 251 NLRB 1083 (1980), enfd. 662 F.2d 899 (1st Cir. 1981), cert. denied 455 U.S. 989 (1982); approved in ***NLRB v. Transportation Management Corp.***, 462 U.S. 393 (1983); ***Electromedics, Inc.,*** 299 NLRB. 928, 937 (1990), enfd., 947 F.2d 953 (10th Cir. 1991). The test applies regardless of whether the case involves pretextual reasons or dual motivation. ***Frank Black Mechanical Services***, 271 NLRB 1302 fn. 2 (1984). "A finding of pretext necessarily means that the reasons advanced by the employer either did not exist or were not in fact relied upon, thereby leaving intact the inference of wrongful motive established by the General Counsel." ***Limestone Apparel Corp.***, 255 NLRB 722 (1981), enfd. sub nom. 705 F.2d 799 (6th Cir. 1982). Violations of Section 8(a)(4) of the Act are also analyzed using the *Wright Line* test. ***McKesson Drug Co.,*** 337 NLRB No. 139, slip op. at 2 (2002).

An Employer cannot simply present a legitimate reason for its actions but must persuade by a preponderance of the evidence that the same action would have taken place even in the absence of the protected conduct. ***GSX Corp. v. NLRB***, 918 F.2d 1351, 1357 (8th Cir. 1990). Furthermore, if an employer does not assert any business reason, other than one found to be pretextual by the judge then the employer has not shown that it would have fired the employee for a lawful, non-discriminatory reason. ***Aero Metal Forms***, 310 NLRB 397, 399 fn. 14 (1993); ***T&J Container Systems, Inc.,*** 316 NLRB 771 (1995).

Radosevich's union and protected concerted activities were well known to the Respondent through his grievances, filing of charges and litigation of his earlier unfair labor practice case. The Respondent's actions in that earlier case establish the Respondent's animus against him because of his union activities. Additionally, Amatuzio's groundless complaints about Radosevich's work – complaints never voiced to Radosevich, his intent to "get" Radosevich by following and photographing him doing unrelated work, and the unexplained and shifting reasons for terminating Radosevich, establish animus towards Radosevich which I conclude is based upon his engaging in union and protected activities, including the litigating of his earlier case. ***Casey Electric***, 313 NLRB 774, (1994) (Animus); ***Naomi Knitting Plant***, 328 NLRB 1279, 1283 (1999)(The Board has long held that shifting reasons constitute evidence of discriminatory motivation. Citing ***Mastercraft Casket Co.,*** 289 NLRB 1414, 1420 (1988), enfd. 881 F.2d 542 (8th Cir. 1989).) I find, therefore, that the General Counsel has made the necessary showing that Radosevich's restricted work after his reinstatement was unlawfully discriminatory under the Act. The Respondent defends its actions by stating that Amatuzio was merely asserting his seniority by assigning himself the untie work after Radosevich's reinstatement. The record demonstrates that this was inconsistent with past work assignments and was not satisfactorily explained. Amatuzio's selective assertion of seniority is found to have been motivated by Radosevich's union and protected concerted activities. The Respondent defended its denial of

launch boat work to Radosevich based on a series of arguments that he had not taken a Coast Guard drug test, had worked for a nonunion boat company and the Union would be displeased if he were assigned launch boat work. My decision in the compliance case rejected all of these defenses as meritless. I affirm those findings here. I find that Amatuzio's doing untie work and the refusal to assign launch boat work to Radosevich, were pretextual acts that were designed to unlawfully discriminate against him. ***Naomi Knitting Plant***, supra; ***Scientific Ecology Group, Inc.,*** 317 NLRB 1259 (1995)(The assertion of a false explanation and shifting reasons for Respondent's action constitutes evidence of pretext.) I conclude that the Respondent did unlawfully deny work to Radosevich in violation of Section 8(a)(1) and (3) of the Act as alleged in the complaint. ***Kroger Co.***, 311 NLRB 1187, 1199 (1993)(violation of the Act to discriminate against an employee by denying previously regularly assigned duties because of the employee's protected activity.)

Radosevich's discharge is similarly flawed. The same background of animus, employer knowledge, timing and motivation exist as to his termination. The Respondent's termination letter says he was fired, in part, because he was late for work. The Record demonstrates that he was not late for work; rather the ship had arrived unexpectedly early. Knowing this, Amatuzio testified, contrary to the termination letter he signed, that tardiness was *not* a reason for discharging Radosevich. He relied instead on Radosevich's "shouting and hollering" about not being paid for his work that day and his resultant discharge. Amatuzio never described specifically what was so offensive about what Radosevich said on November 20. The credited testimony does not show that anything Radosevich said on that occasion caused him to lose the protection of the Act and, as noted, he was asserting a contractual right to be paid for his work and disputing that his discharge was legitimate. ***Tillford Contractors***, 317 NLRB 68, 69 (1995)(Asserting a contractual right is protected activity under the Act.) Similarly, the Respondent presented no evidence as to how Radosevich's actions on November 20 placed other workers in jeopardy as alleged in his termination letter. I find that the incident was a convenient pretextual excuse that Amatuzio seized upon to discharge Radosevich. I find, therefore, that the Respondent has not sustained its burden of establishing that it would have discharged Radosevich regardless of his union activities. I infer that because of the false, shifting and unexplained reasons advanced for the termination that there was another motive which the Respondent wished to conceal. I conclude that reason was Radosevich's union and protected concerted activities. ***Shattuck Denn Mining v. NLRB***, 362 F.2d 466 (9th Cir. 1966). I find that such a discriminatory termination violates § 8(a)(1) and (3) of the Act.

I also find that the record supports the conclusion that the Respondent's discrimination in denying work to Radosevich and discharging him was due to the fact that he had filed charges and testified against the Respondent. For the reasons stated above, I find that the Respondent did not show that it would have denied work to or discharged Radosevich regardless of the fact that he filed charges and gave testimony against the Respondent. I conclude, therefore, that the Respondent violated Section 8(a)(4) of the Act by such discrimination against Radosevich.

CONCLUSIONS OF LAW

1. North Star Marine Operators, Inc., is an employer engaged in commerce within the meaning of Section 2(2), (6) and (7) of the Act.

2. The International Longshoremen Association, AFL-CIO, Local 1037, is a labor organization within the meaning of Section 2(5) of the Act.

3. The Respondent has violated Section 8(a)(1), (3) and (4) of the Act.

4. The foregoing unfair labor practices constitute unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

On these findings of fact and conclusions of law, and on the entire record, I issue the following recommended:[3]

ORDER

The Respondent, North Star Marine Operators, Inc., its officers, agents, successors, and assigns, shall

1. Cease and desist from:

(a) Discharging John W. Radosevich, or any other employee, because they engage in union activity, protected concerted activity, or file charges or give testimony under the National Labor Relations Act.

(b) Denying work to John W. Radosevich, or any other employee, because they engage in union activity, protected concerted activity, or file charges or give testimony under the National Labor Relations Act.

(c) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act:

(a) Within 14 days from the date of this Order, offer John W. Radosevich full reinstatement to the line handlers position from which he was unlawfully discharged on November 20, 2002, or, if that position no longer exists, to a substantially equivalent position,

[3] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommend Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

without prejudice to his seniority or other rights and privileges he would have enjoyed had he not been unlawfully discharged.

(b) Make John W. Radosevich whole, with interest, for any loss of earnings or other benefits suffered as a result of his unlawful discharge on November 20, 2002, and the failure to assign him the work of untying ships and boat launches from September 28 to November 20, 2002, (as also specifically set forth in JD(SF)-71-03 issued this date) and from April 30, 2003 to the present, computed on a quarterly basis, less any net interim earnings, as prescribed in ***F. W. Woolworth Co.***, 90 NLRB 289 (1950), plus interest as computed in ***New Horizons for the Retarded***, 283 NLRB 1173 (1987).

(c) Within 14 days from the date of this Order, remove from its files any reference to the discharge of John W. Radosevich on November 20, 2002, and within three (3) days thereafter notify him in writing that this has been done and that his discharge will not be used against him in any way.

(d) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

(e) Within 14 days after service by the Region, post at its facility in Duluth, Minnesota, copies of the attached notice marked "Appendix." [4] Copies of the notice, on forms provided by the Regional Director for Region 18, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since September 28, 2002. ***Excel Container, Inc.***, 325 NLRB 17 (1997).

---

[4] If this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

(f) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated

_____

Albert A. Metz
Administrative Law Judge

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board had found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities

WE WILL NOT discharge, deny work to or otherwise discriminate against John W. Radosevich or any of our employees because of their engaging in union or other protected concerted activities or because they have filed charges or given testimony under the National Labor Relations Act.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL within 14 days from the date of the Board's Order, offer John W. Radosevich full reinstatement to his former job or, if his job no longer exists, to a substantially equivalent position, without prejudice to his seniority or any other rights or privileges previously enjoyed

WE WILL make John W. Radosevich whole for any loss of earnings and other benefits resulting from his discharge, less any net interim earnings, plus interest.

WE WILL within 14 days from the date of the Board's Order, remove from our files any reference to the unlawful discharge of John W. Radosevich, and **WE WILL**, within 3 days thereafter, notify him in writing that this has been done and that his discharge will not be used against him in any way.

NORTH STAR MARINE OPERATORS, INC.

(Employer)

Dated _____ By _____

(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov.

330 Second Avenue South, Towle Building, Suite 790
Minneapolis, MN 55401-2221
Telephone: (612) 348-1757
Hours of Operation: 8:00 a.m. to 4:30 p.m.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, (612) 348-1770.